

May 1, 2018

Mr. Henry A. Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, Maryland 21057

Re: 303 Clubhouse Road Property
Forest Conservation Variance
Tracking # 03-18-2671

Dear Mr. Leskinen:

A request for a variance from Article 33, Title 6, Baltimore County's Forest Conservation Law was received by this Department of Environmental Protection and Sustainability (EPS) on March 7, 2018. The request proposes to remove the two native specimen trees onsite for the expansion of an existing parking lot on this 3.9-acre property that is zoned for light manufacturing and major industrial uses. The subject specimen trees, a 31-inch DBH slippery elm and a 34-inch DBH eastern cottonwood, are located in an early seral stage hedgerow that parallels Interstate 83. Both trees are pioneer species that are in fair or better condition. The applicant proposes to mitigate for the isolated specimen trees via a fee-in-lieu payment of \$1,870.50 into Baltimore County's Forest Conservation Fund.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six criteria listed in Subsection 33-6-116 (d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of his property. The applicant is seeking to enlarge and reconfigure an existing parking lot on Lot 40B of the Hunt Valley Business Community, which existed well prior to the effective date of the Forest Conservation Law. Requiring the developer to reconfigure and reduce the overall size of the parking lot expansion would preclude full use of the lot, thereby creating a hardship; however, it would not

deprive the applicant of all beneficial use of the property. Consequently, that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. Rather than the general conditions in the neighborhood, the petitioner's plight is due to the difficulty in designing an efficient parking lot while adequately protecting the two specimen trees within the drainage ditch easement for Interstate 83 that parallels the western boundary of the site. Therefore, we find that this criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The granting of this special variance to facilitate the proposed expansion of an existing parking lot in a manufacturing/industrial community is consistent with the surrounding Hunt Valley Business Community and would not change the character of the surrounding neighborhood. Consequently, we find that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. This project is not impacting forest, has met its 0.5-acre afforestation requirement at an offsite forest bank in 2009, is far removed from any riparian resources, and will meet current water quality management requirements through environmental site design. Therefore, we find that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The request is based solely on the locations of the specimen trees on the project site. Furthermore, this request is not the result of any actions taken by the petitioner. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Proposing to remove two specimen trees and mitigate via paying a fee-in-lieu would be consistent with the spirit and intent of the Forest Conservation Law. Therefore, we find that this criterion has been met by the variance request.

Mr. Henry A. Leskinen
303 Clubhouse Road Property
Forest Conservation Variance
May 1, 2018
Page 3

Based upon our review, this Department finds that the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. As proposed, permanent impacts to the two isolated specimen trees in fair or better condition shall be mitigated by payment of a fee-in-lieu of \$1,870.50 prior to issuance of any grading permits. Checks shall be made payable to Baltimore County.
2. A final forest conservation plan (FCP) must be approved by EPS prior to issuance of any permits. On the final FCP and all subsequent plans for this project, please ensure the following note appears:
 - “A variance to Baltimore County’s Forest Conservation Law was granted by Baltimore County EPS on May 1, 2018 to allow impacts to the two specimen trees onsite. Conditions were placed on this variance, including paying a fee-in-lieu into the Baltimore County Forest Conservation Fund.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the property owner and contract purchaser (if applicable) sign the statement on the next page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Michael S. Kulis at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/msk

c. Marian Honeczy, Maryland DNR

Mr. Henry A. Leskinen
303 Clubhouse Road Property
Forest Conservation Variance
May 1, 2018
Page 4

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Property Owner's Signature

Date

Printed Name

Contract Purchaser's Signature

Date

Printed Name